/137 cont'd/ The Miao who
533 was our guide began to sing love songs—his voice was so loud that the echoes shook the whole valley. The women ahead of us, though they glanced back, did not answer with songs, nor did they stop walking. We did not want to give up and caught up with them. At a closer look we saw two elderly women of around forty or fifty. They were acquainted with our guide and asked him where we were going, but he was so embarrassed that he flushed profusely and could not utter a word. We could not help laughing aloud at this sight.

Third month, third day. (Wednesday)

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585 A niece of Headman Lu was to be married, and the villagers assembled in his house in the morning to select the auspicious day according to the t'ung shu /almanac/. It resembled that used by the Chinese, and the method they used for calculating the dates also was similar.

692 Yüan-chiung didn't feel well, and in the afternoon I accompanied him on a walk out of the village. We met a Miao on our way, who kept telling us how he had been cheated by a merchant at the Wen-hua trading center in a deal over edible tree fungus. He was overcome with indignation. But he said living high in the mountains, there was no place where he could lodge a complaint and seek redress. He had now decided to go to the Pao-t'ing district headquarters to lodge a complaint.

527 The chung jen chai took place tonight in the same bamboo shed where the tso chai was held the day before. Pictures of the gods were hung on the walls, and an incense burner was set up on the table. The set up was simple, and the priests did not bother to change their clothes. All they did was to chant incantations and perform their rituals.

/138/ A Miao whose nephew had been wronged by someone came to ask me to write a letter for him that he could send in order to deal with him. When I said I would, he thanked me and left.

*782 /153 cont./
627 by the other party to drink blood in place of the principal in order to settle a dispute. There is also all-round blood drinking in which the witness and the disputing parties all drink blood. This generally occurs when the two parties mutually avail themselves of pretexts, and there is no alternative but for the two parties and the witness all to drink blood. Moreover, there are times when the whole family drinks blood. The whole family, father, mother, wife, and children, male and female, big and small, altogether enter the temple to drink blood. In drinking blood, this is the most important. After drinking blood each must take an oath, saying: "If you wrongly accuse me, I shall become very prosperous; if I wrongly accuse you, then I shall nine times die and nine times be cut off." After the blood drinking, there can be no regrets, regardless of whether the issue is important or trivial.

On drinking blood at the T'ien Wang temple, it is necessary to write out the oath /to be burned?/. A blood list is also burned. The blood supervisor is compensated with a sum of 880 cash or at most 8,800 cash, which is called "money for binding words." Three days after the blood drinking one has to kill an animal to make good the vow, which is called "repenting."

[691] [695] The Miao are addicted to kuei and to litigation. Sometimes litigation may last a year, and the court, unable to decide the case, may ask both parties to eat blood. This serves as a deterrent. Yen Ju-yü in his Miao Fang-pei Lan says: "Those who enter the temple to drink blood move on their knees and bellies, not daring to look up; those who are in the wrong dare not drink it, but repent and yield." In the course of our investigations in the Miao frontier area, the private secretary of the hsien government at Feng-huang, Mr. Wang Yüeh-yen told us: "The T'ien Wang temple is the Supreme Court of the Miao area.

[695] When a Miao is not satisfied with the decision of the hsien government, then he is ordered to go to the T'ien Wang temple to drink blood. Whatever the litigation, big or small, it receives immediate settlement." It can be seen that the Miao's awe of

[692] kuei is greater than their awe of the law.

4:Mickey E-5 (1940-?) 1947 AE5 Miao AE5

ing school, and the engineers' corps of the railway being built through the town from Kwangsi to Kweiyang. To it the people of the surrounding contryside, including at least three groups of Miao and the Chung-chia, went to market. It was also the seat of the *hsien* government and contained a middle school, postal and telegraph offices, and a co-operative bank, with all of which the non-Chinese, as well as the Chinese, had some dealings. A few of the more well-to-do families sent one of their boys to the middle school. Cases which could not be settled in the village or by the *lien pao* official, who was also a Chinese, were of necessity brought to the *hsien* court, as well as cases which involved both Miao and Chinese.

The market was held in an open space reserved for it just inside the east gate of the city. There were permanent sheds under which merchants who made the rounds of such markets displayed their stocks of cloth, notions, and articles manufactured elsewhere. Other sections of the grounds were reserved for eggs and poultry, sandal straw, farm implements, brown sugar cakes, fruits and vegetables, dishes and cooking utensils, pigs, tobacco, chillies, food stalls, articles of wood and bamboo, meat, firewood, grain, and the thin strips of sulfur-tipped wood used for carrying fire. The main market for wood was just outside the city gate.

People within a radius of perhaps ten miles and including Chinese, Chung-chia, and three, sometimes four, groups of Miao, attended this market to buy and sell. One group of Miao came from the mountains twenty-four miles to the south with charcoal. Each group had a distinctive costume worn by the women. That of Chung-chia women consisted of long, narrow trousers with a woven band of color at the ankles, a knee-length blouse in old Chinese style, a straight apron attached to the collar of the blouse with a silver chain and tied with embroidered strings in the back, and a tight skull cap. The women of one group of Miao wore dark blue trousers to below the knee, a skirt of many pleats of dark blue, bordered with a wide band of white, a blue blouse worn surplice and having a large sailor collar. Their legs were wound in many long strips of blue cloth. About the waist

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634 In order to have his orders carried out, the great chief had
701 at his command all the arms-bearing men in his administrative district, but he was not permitted to abuse his power of command in such a way as to prevent his subjects from earning their livelihood.

622 As has been mentioned, the great chief appointed the
634 village chiefs (šǎu pā) in the villages under his jurisdiction. Like him, they were appointed for life unless they committed a grave offense. In such cases, the arms-bearing men of the
[692] village brought their complaints against their village chief to
[687] the great chief. The latter investigated the case and appointed another village chief if he felt that there was sufficient justification.

[692] The village chief was, first of all, the judge in all minor
[651] matters. Moreover, he had to collect the taxes for the great chief and see to it that the great chief's orders were carried out. Parallel to the authority of the great chief, the village
[701] chief had at his disposal the arms-bearing men in his village, to whom he gave corresponding orders. Naturally, therefore, the same limitations applied to him as to the great chief.

622 The great chief had four or five officials at his disposal;
624 the village chief had one official. The orders were first of all
634 conveyed to them, and they were called upon for any task that their superior assigned to them. They were paid either by the great chief or by the village chief, depending on who their superior was, from his own pocket. There were no other officials in the true sense of the word.

622 The village chief's income consisted of his share of the
634 aforementioned fines meted out by the great chief, also the
681 fines that the village chief himself imposed in minor cases, and the minor services that the men and women of his village performed voluntarily.

c) Popular Assembly

623 The popular assembly has special importance among the
634 Meau. There are two kinds of popular assemblies.

/42 cont./

623 The assembly of all the arms-bearing men of a village /43/ is usually convoked by the village chief in all cases pertaining to the welfare of the village. Such cases are: the laying out of rice fields, the selection of a settlement site in the relocation of villages, communal hunts, and the like. The [666] majority vote decides the issue. The popular assembly, how- [634] ever, may be convoked even against the will of the village chief if the villagers want to file a complaint against their village chief with the great chief. In this case the assembly convenes upon the initiative of the village elders.

634 The popular assembly of all arms-bearing men within the administrative district of a great chief had far greater power. It met only when needed; its decisions had to be unanimous. It was convoked by the great chief in order to pass resolutions about important matters. Such important [721] matters were decisions about war and peace and measures to [796] be taken to celebrate the festival of the New Year or the harvest festival. The resolutions passed by the popular assembly of the great chief were of an advisory nature, for the great chief was under no obligation to comply with them. Actually, of course, he avoided acting against the voice of his people. In one case, however, the great chief was absolutely bound to accept the decision of the popular assembly: when the latter ●[692] had decided on his removal. The great popular assembly was, at the same time, a court of appeal for verdicts of the great chief, and its decisions were regarded as irrevocable.

634 693 The expenses of a popular assembly had to be paid by the person who summoned it, hence either by the great chief himself or the party who had moved that it be convened. Among the expenses there were the provisions for all the assembly-participants at the place of the meeting, but no compensation was given for the journey to and fro. Moreover, in connection with minor cases, two chickens and plenty of alcohol were collected for the great chief and the elders; in connection with major affairs, one or more pigs.

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/243 cont./

A 426 [614] Limitation of debts is as unknown to the Akha as it is to the Meau. The Akha, too, are familiar with repaying a loan in installments, as well as with interest charges. Among the Akha, however, interest is collected from sib members as well as from /244/ outsiders. The interest rate is not fixed once and for all, but in each case is left to a voluntary arrangement by the partners.

A [768] [567] [858] After the death of a debtor, the heirs are responsible for debts which he was unable to settle before his demise. In contrast to the situation among the Meau, the creditor has no right with respect to tardy debtors to make slaves or debt prisoners of their children in lieu of payment. Also, there is no such absolute A [686] power over the debtor himself or the other members of his family. The killing of a debtor is out of the question.

[675] [211] Among the Akha I did not find the making of a debt-stick or any custom similar to it.

b) Right of Succession

M 596 428 When the head of a large /extended/ family dies among the Meau, his estate is not divided up for the time being. The members of the large family remain together as before, and the oldest married son still living in the house of the deceased, in other words, a man not yet thirty years old, is the chief heir and assumes the privileges of the deceased. He cannot refuse M [622] the obligation and office which fall to him. If he nevertheless shuns them, the village chief has him summoned and reminds him of his duty.

If this son should be incapable of providing for the family of the deceased because of sickness or as a result of his physical or mental make-up, he is replaced by the second oldest son still living in the paternal home, provided that he has the necessary qualifications. In short, the place of the deceased head is taken by that son remaining in the house who has the required physical M [622] [692] qualifications and is next in age. In case of conflict, it is the business of the village chief to make the decision.

/250 cont./

683 754 Since the Meau do not believe that black magic is practiced among their tribesmen, there is no punishment for it. Outlawing is likewise unknown.

692 622 634 [689] Offenses against custom are judged by the village chief or the great chief. Crimes, which very rarely occur among the Meau, are judged by the great chief. In such cases the village elders and the village chief appear as examining magistrates.

674 114 Dhuraratsadorn (1), too, points out that homicide and

1. Page 171.

crimes of violence are for the most part unknown within the family community, which he designates erroneously as "clan." He assumes that robbery might occur if it becomes known that a member of the community has received a large sum of money through the sale of opium or the like. The author then continues by saying that this offense had never occurred in the district of San Mahapon with which he is familiar, but characteristically he explains this not on the basis of the morality of the [454] Meau, but by their custom of not carrying any money with them, much less keeping it in their houses, but of carefully hiding it somewhere. I was unable to confirm the custom of "money-hiding" among the Meau, but I did find it among the Lahu; hence I assume that there is some confusion on the part of the author.

682 The punishment for murder in connection with robbery or homicide is execution. It is reported of some Meau tribes in China (2) that buffalo were paid as a fine for homicide. Only [634]

2. Eberhard, II, p. 252.

685 439 the great chief, however, can give the sentence. The same punishment befalls anyone who commits simple robbery or theft from traveling merchants. The harsh appraisal of this offense goes back to the fact that the traveling merchants, all of them Chinese, bring wares that are important to the Meau, but those areas in which there is danger of robbery and theft would be avoided.

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Miao AE5

/251 cont./

A 689 Lying is forbidden, to be sure, as it is among the Meau, but it is not punished, as it is among them. Similarly the Akha A 684 do not have any penalties for rape. The reason for this is the same as among the Meau.

A 685 A person convicted of theft simply has to return the stolen goods. If he has denied the theft, however, he must restore twice as much. In the case of arson, too, the perpetrator must simply make good the full damage.

A 683 /252/ The same holds true for bodily injury; in addition the perpetrator must fully provide for the injured for the duration of any ensuing reduction of his ability to work.

A 684 For violation of the rather broadly conceived incest prohibitions, the male partner must pay to the female partner ten to fifteen pieces of silver "for compensation," as it is expressed. I have already discussed in detail the punishment for adultery in the chapter, "Life in the Community," section on "Dissolution of Marriage."

A 681 Habitual criminals of any kind are banished, but not killed.

d) Jurisdiction

A M 671 648 692 The mountain peoples are subject to the laws of the colonial powers in whose territory they happen to be. Thus, the Meau of China are subject to Chinese jurisdiction and those of Tonkin to French-Indochinese jurisdiction, as is also shown in the works of Abadie (1) and Lajonquière (2). Accordingly, the

1. Page 163.

2. II, p. 321.

Meau and Akha of Thailand are subject to the laws of Thailand, and those of Kengtung to the laws of the Schan /Shan/.

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/252 cont./

A M 648 692 In general, however, this gives a rather theoretical picture of legal conditions. Only in very serious cases, and even then only as an exception, are legal cases brought to the law courts of the colonial powers by the mountain people. This usually happens only if a member of a mountain tribe has been in the service of members of other tribes for a long time or lives in a settlement of another tribe, which is rare. In such isolated instances, however, it may happen that such a tribesman will appear as defendant or plaintiff before the court of the colonial administration concerned.

The Akha in Kengtung as well as the Meau in Tonkin who are to a large extent controlled by the government of the colonial powers, settle almost all their cases in their own domain and in accordance with their customary law, so that not more than one per cent of their cases come before the official jurisdiction.

A 628 648 692 [631] /253/ It is different among the Akha when there are disputes to be settled between their various villages. Since the Akha today have no political organization beyond the village unit, they frequently turn to the chief of the nearest valley tribe and ask him to decide the issue (see the chapter, "Political Organization," the section, "Popular Assembly"). The latter, usually a Schan /Shan/ or Lao, then acts as a sort of arbitrator.

e) Legal Procedure in Characteristic Cases

M 692 In accordance with the very precisely organized political structure, the individual Meau is obliged to observe the established legal procedure in all cases. Self-help is therefore forbidden. Accordingly, blood vengeance is unknown, as are secret courts.

M 692 622 [685] [693] Among the Meau, thefts, insofar as trifles are involved, are at first simply put up with; in repeated cases, however, one turns to the village chief, who acts as judge in petty cases. He is the court of the first instance in all lawsuits. If the village is so large, however, that the village chief is too greatly occupied with other matters, then an older man of the village takes over

/253 cont./
692 the office of judge for him. In such cases, if an appeal is made
[622] against his decision, the village chief is then the next higher
596 court. In disputes within a large family, the head of the family
[693] officiates. For serious decisions, assemblies under the chairmanship of the village chief or the great chief are convened, as I have reported in the chapter, "Political Organization."

695 The judge, with the help of witnesses, tries to determine the facts of the case. Special importance is attached to the testimony of the witnesses, and can be, according to my experience, because among the Meau the witnesses always tell the truth, at least subjectively. Dhuraratsadorn (1) seems to have

1. Page 170.

made similar observations: "They believe that the Meau witnesses always tell the truth. In case of a crime, the Meau seldom question witnesses. If someone accuses another, the accused is either convicted or punished, or he may deny his guilt, /254/ in which case a fine is imposed on the accuser in
[681] favor of the accused. If it later turns out that he falsely denied
[626] his guilt, he is expelled from the community and must leave the village, for otherwise he would be killed."

In case of a criminal offense for which there are no witnesses, the investigations are discontinued after three years. Nevertheless, there is no time limitation for crimes. Even if the perpetrator is not discovered until ten years later, perhaps accidentally, he is punished exactly as if he had just been caught in the act.

In civil-law cases, too, when the assertions of the parties are contradictory, the judge tries to determine the truth through witnesses. The underlying principle is that the plaintiff and not the accused must prove his assertions. Oaths and oath formulas are unknown. Witnesses, like the parties, are strictly obliged to
[577] tell the truth, regardless of whether or not it is damaging to the witness or whether there are ties of kinship with the parties or
[687] witnesses. A refusal to give testimony is not permitted; false statements are punished severely.

/254 cont./

692 695 [634] [622] Capital crimes, as well as civil cases in which the defeated has lodged an appeal, are decided incontestably by the great chief. The appeals are therefore as follows: an appeal against the verdict of the village elder goes to the village chief and one against the latter goes to the great chief. In special cases the verdict of the great chief can be appealed to the popular assembly, as has already been set forth in the chapter on "Political Organization," the section, "The Popular Assembly."

695 756 [634] There is no appeal against the verdict of the popular assembly. In ambiguous cases the judge turns to the shaman and instructs him to arrange for ordeals /Ordale/. Such ordeals take place before the popular assembly; they also play a role in criminal law. For example, the following ordeal is customary for the conviction of a criminal. The shaman makes a large carrying basket of split bamboo, which he covers with the clothing of a man. Next he looks among the girls of the village for two virgins, and, to make certain that all necessary conditions for the aims of the ordeal are actually fulfilled, he prefers to select two girls who are still immature and who must hold the basket on two sides. Then /255/ the accused burns several pieces of spirit-money and begs the high Father-Mother spirit to appear and make known the truth. As soon as the basket begins to sway, it is assumed that the high spirit has arrived. With a loud voice the accused now asks whether the high spirit has arrived, and it is assumed that the spirit is in the basket and is influencing the actions of the girls as soon as the covered basket again begins to sway. Next the shaman calls the names of all the suspects, one after the other. If the basket sways when one of the names is mentioned, the question is repeated two more times. If the basket is seen to move again, the culprit is regarded as convicted. If he nevertheless continues to deny his guilt, the shaman asks the girls to point out the culprit. If they now tap him on the shoulder, his guilt is regarded as proved.